

1 Honorable Marsha J. Pechman
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COINLAB, INC., a Delaware Corporation,) No. 2:13-cv-00777-MJP
)
Plaintiff,) **DECLARATION OF**
) **MARK KARPELES**
v.)
)
MT. GOX KK, a Japanese corporation, and)
TIBANNE KK, a Japanese corporation,)
)
Defendants.)
)

I, Mark Karpeles, hereby declare as follows:

1. I am the CEO of Defendant Tibanne KK (“Tibanne”). I give this Declaration in support of Tibanne’s Opposition to Plaintiff’s Motion for Relief From Stay (the “Opposition”).

2. On August 19, 2014 (not August 8, 2014), Tibanne’s counsel provided to CoinLab, Inc.’s (“CoinLab”) counsel two lists that identified websites that were owned or controlled by Tibanne. To the best of my knowledge, those lists are accurate and complete.

3. In connection with the Opposition, I reviewed the Declaration of Christopher Koss in Support of Motion to Lift Stay (Dkt. 99) (the “Koss Declaration”). As described below, I believe that portions of the Koss Declaration are inaccurate. Additionally, some of the sections cannot be evaluated because they are not sufficiently explained.

4. For example, Paragraph 3 of the Koss Declaration purports to list information available in a domain’s “WHOIS Record” stored by a registry. However, that is not accurate

1 because not all registries will store all of the details listed. Additionally, some registries do not
2 require updated accurate domain data, and even those that do cannot ensure that all of the data
3 listed is, in fact, accurate. The Koss Declaration does not identify any method used to verify the
4 accuracy of any of the data purportedly obtained from such third parties.

5 5. Paragraph 4 refers to DomainTool.com. This is a website that maintains an index
6 of domains looked up through its services. The data in this index is, thus, both subject to error
7 for the reasons stated above, and potentially incomplete. And, while it is true that the content of
8 WHOIS Records can be searched on DomainTool.com, this is not how WHOIS Records are
9 intended to be used. Further, due to the inherent limitations of the data contained in
10 DomainTool.com index, it will not list every domain that is registered and, for those that are in
11 the index, it may return expired information. The Koss Declaration does not identify any method
12 used to verify the accuracy of any of the data purportedly obtained from DomainTools.com.
13 Additionally, CoinLab failed to identify how it conducted its searches on DomainTool.com,
14 including what search terms or parameters were utilized.

15 6. In Paragraph 8 of the Koss Declaration, Koss states that “CoinLab then wrote
16 software scripts using the Python programming language to compare and analyze the WHOIS
17 Records from each list. The results of CoinLab’s analysis, and its conclusions based thereon,
18 follow.” CoinLab has not, however, provided Tibanne with these software scripts or otherwise
19 explained how they operate. Accordingly, it is impossible to determine whether those software
20 scripts accurately performed the task they were supposed to do.

21 7. In Paragraph 11 of the Koss Declaration, Koss states that Tibanne’s lists contain
22 domain names not registered to Tibanne. This may be true since the “ownership or control” of a
23 website is not always reflected in domain registration. Further, CoinLab has never provided
24

Tibanne with an identification of any websites that it believes may have been included in the lists in error, so Tibanne has not been able to evaluate any such assertion.

8. Paragraph 12 of the Koss Declaration claims that there are four domain names controlled by Tibanne that are listed for sale. In fact, there are several others listed for sale, as this is part of Tibanne's ongoing business activities. However, no domains were sold during the time that the TRO was in place.

9. The domain names listed in Paragraph 15 of the Koss Declaration are not registered through third party domain privacy services. However, the WHOIS Records provided by the registry do not list ownership information. Further, as noted above, checking WHOIS Records does not allow for confirmation of the legal ownership of domain names. That is why Tibanne was ordered to, and did, provide the website lists.

10. The two domain names identified in Paragraph 16 of the Koss Declaration are not under the control of Tibanne. They are owned and controlled either by unknown third parties or by Tibanne customers.

11. Starting in February 2014, Mt. Gox and I have made efforts to respond to concerns and criticisms regarding the loss of a substantial number of bitcoins. (See Exhibits A-B hereto.)

I declare under the penalty of perjury under the laws of the United States of America that
the foregoing is true and correct.

DATED this 15th day of September, 2014.

Mark Karpeles